

Application Serial No. 10/566,226
Attorney Docket No. S2082/20003
Request for Reconsideration Dated August 13, 2008

REMARKS/ARGUMENTS

Claims 1-18 are pending with Claims 1 and 12 being the independent claims.

The Examiner has rejected Claims 1-11 and 12-18 under 35 U.S.C. §102(b) as being anticipated by French Patent No. FR2616221 (Chevallier, et al.). With particular regard to Claim 1, the Examiner states:

...Chevallier discloses an injection device (Figs. 8 and 9) comprising: a housing (104) having a proximate end (near reference 110) and a distal end (near 102), the distal end having an opening therein (opening 126); a cartridge barrel (116) within the housing, the cartridge barrel having proximate and distal ends (115 and 118a, respectively); a needle cannula (180) fixed to the distal end of the cartridge barrel, or attachment means for fixing a needle cannula to the distal end; a stopper within the cartridge barrel (the stopper portion is the rectangular portion fixed to 117, the stopper portion being located above the 190 closest to 117); a driver coupled to the stopper (the driver is composed of the assembly that includes 117, 140, 120, 106, 160, etc.); a shield (166) coupled to the housing and slid able between a retracted and an extended position (Fig. 9 discloses the retracted position and Fig. 8 discloses the extended position). 166 is disclosed as sliding relative to the housing); shield driver means (123) activatable to urge the shield from the retracted position to the extended position; and sensor means (the combination of 165 and 160 comprise the sensor means) forming a portion of said driver (160 is as described above a portion of the driver) and in slid able contact with an exterior surface of said cartridge barrel (Fig. 9 discloses that 165 (being the elongate piece that 160 bears against in Fig. 9 and the piece that 160 caps in Fig. 8) slides along the housing) the sensor means arranged to detect an end profile of the barrel and to automatically trigger activation of the shield driver means upon detection (Fig. 9 discloses that the sensor means 165 slides along the barrel, while 160 forces 165 against the barrel, and when 165 has slid beyond the end of the barrel, 160 senses that 165 is no longer in contact with the barrel and 160 forces 165 downwards and automatically activates/triggers the activation of the shield driver means as seen in Fig. 8 and the shield is released to extend around the needle).

The Examiner makes similar remarks with regard to independent Claim 12.

Applicants respectfully disagree for the following reasons.

The elements 165 and 166 in Chevallier are not referred to as a shield in any manner but rather are referred to as “plate of release 165” and “return 166 of plate of release 165”. In particular, the paragraph on p. 11 of Chevallier, lines 9-17 can be translated as:

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This trigger 160 is, just as trigger 60 of the preceding device, actuated by the re-entry of the plate of release 165 with the interior of body 110 and is blocked axially by an axis of stop 162 laid out transversely with the interior of the body 110. This plate of release 165 is requested with the outside of this body by a spring 170 located between a return 166 of this plate and shutter 102 of the body, its exit being limited by a projection 167 coming in butted against shutter 102 from the body. Lastly, this plate 165 is guided laterally in two grooves 105 of body 101.

Furthermore, the paragraph on p. 12, lines 22-24 can be translated as:

If one wishes to proceed to injection, it is enough to push the return 166 of the plate of release 165 against the zone where injection is to occur.

In addition, Claim 12 also clarifies that:

12. The device according to claim 11, characterized in that the trigger (160) is ready to be released by the re-entry with the interior of the body of the device of a plate of release (165), this one being urged with the outside of the body of the device by average rubber bands (170).

Thus, in view of the foregoing, the return 166 (hereinafter referred to as “the return”) simply acts as a flat surface which, when pressed against the skin, triggers the injection by displacing a trigger 160¹. The return 166 of Chevallier is not being used as a shield, as specified in the claims of the present application. In fact, as can most clearly be seen in Fig. 11 of Chevallier, once the injection is completed, the return 166 provides no more “shielding” than does the cone member 120a since the return 166 slides over the cone member 120a. In addition, the return 166 cannot be acting as a shield if it begins in an “extended (i.e., farther from the needle point) position” (Figs 7-8) and ends up, after injection, to be in a “retracted (i.e., closer to the needle point) position (Figs. 10-11). Therefore, Applicants respectfully traverse the Examiner’s assertions that return 166 is equivalent to the shield specified in the claims of the present invention.

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Furthermore, the sensor means specified in the claims is not taught or suggested by Chevallier. As specified in Claim 1 of the present invention, automatic deployment of the shield occurs when the sensor means detects an end profile of the barrel or housing (see p. 9, lines 30-31 and Fig. 10 of the present application). In contrast, Chevallier does not teach or suggest deploying a shield so there is no need to detect the end profile of the barrel or housing. It appears that the release plate 165 and return 166 are used to activate the trigger 160 to automatically dispense the medicament in the syringe 116 once the return 166 is compressed against the skin of the patient.

Thus, for all of the above reasons, Applicants respectfully submit that Claims 1 and 12 are patentable over Chevallier and Applicants respectfully request that the §102(b) rejection be withdrawn.

Claim 2 is dependent upon Claim 1 and is patentable for the same reasons. Furthermore, the barrel 116 of Chevallier is not located within any coil spring and most especially, not located within spring 123 which is forward of the barrel 116. Thus, for all of these reasons, Claim 2 is patentable over Chevallier.

Claim 3 is dependent upon Claim 2 and is patentable for the same reasons.

Claim 4 is dependent upon Claim 1 and is patentable for the same reasons. Furthermore, based on Fig. 1 and Figs. 7-11 of Chevallier, it does not appear that the Chevallier device provides any option for manually operating the injecting device but is rather self-contained. Thus, for all of these reasons, Claim 4 is patentable over Chevallier.

¹ See "Abstract" for FR2616221 which is in the accompanying Information Disclosure Statement.

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Claim 5 is dependent upon Claim 4 and is patentable for the same reasons.

Claim 6 is dependent upon Claim 1 and is patentable for the same reasons.

Claim 7 is dependent upon Claim 6 and is patentable for the same reasons.

Claim 8 is dependent upon Claim 1 and is patentable for the same reasons. Furthermore, element 160 is a trigger element and is not integrally formed with any driver or else it could not pivot (see Fig. 9 of Chevallier) or translate (see Figs. 10-11 of Chevallier). Thus, for all of these reasons, Claim 8 is patentable over Chevallier.

Claim 9 is dependent upon Claim 8 and is patentable for the same reasons. Furthermore, as shown in Fig. 8 of Chevallier, the release plate 165 is not even in contact or closely adjacent the surface profile of the barrel 116. In addition, the edge of the release plate 165 cannot follow the forward contour of the barrel 116 which is cone-shaped; Fig. 9 shows the release plate 165 only closely adjacent a parallel side of the barrel. Thus, for all of these reasons, Claim 9 is patentable over Chevallier.

Claim 10 is dependent upon Claim 8 and is patentable for the same reasons. Furthermore, as stated previously, element 160 of Chevallier is a trigger element that is shown clearly as a pivoting member (see Fig. 9). Thus, trigger 160 is not operating as a catch and trigger 160 is a distinct element, separate from the release plate 165. Thus, for all of these reasons, Claim 10 is patentable over Chevallier.

Claim 11 is dependent upon Claim 1 and is patentable for the same reasons.

Claim 13 is dependent upon Claim 12 and is patentable for the same reasons.

Claim 14 is dependent upon Claim 12 and is patentable for the same reasons.

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Furthermore, the Examiner asserts that there are “two sensor elements” where 160 is the detecting element. It is unclear how the Examiner concludes that there are *two* sensing elements from this statement. Thus, for all of these reasons, Claim 14 is patentable over Chevallier.

Claim 15 is dependent upon Claim 12 and is patentable for the same reasons. Furthermore, the Examiner asserts that there are latches in the housing and shield, shown in Figs 8-9. It is unclear where these features are shown in those figures. Thus, for all of these reasons, Claim 15 is patentable over Chevallier.

Claim 16 is dependent upon Claim 15 and is patentable for the same reasons. Furthermore, the Examiner asserts that latches prevent premature release of the shield, shown in Figs 8-9. It is unclear how the Examiner can conclude this when there is no shield that is latched. Thus, for all of these reasons, Claim 16 is patentable over Chevallier.

Claim 17 is dependent upon Claim 15 and is patentable for the same reasons. Furthermore, the Examiner asserts that latches retain the shield in a needle shielded position, shown in Figs 8-9. It is unclear how the Examiner can conclude this when there is no shield that is latched. Thus, for all of these reasons, Claim 17 is patentable over Chevallier.

Claim 18 is dependent upon Claim 1 and is patentable for the same reasons.

Thus, Applicants respectfully submit that, as amended, Claims 1-18 are now in condition for allowance. Accordingly, prompt and favorable examination on the merits is respectfully requested.

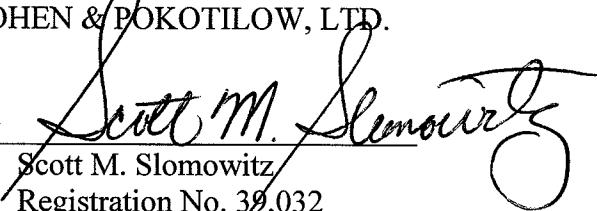
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Should the Examiner believe that anything further is desirable in order to place the application in even better condition for initial examination and allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

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